

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-6953**

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FREDERICK R. SUMMEY,

Petitioner - Appellant,

v.

AL HAYNES, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the Northern District of West Virginia, at Martinsburg. John Preston Bailey, Chief District Judge. (3:05-cv-00109-JPB)

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Submitted: April 23, 2008

Decided: May 5, 2008

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Before TRAXLER and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Frederick R. Summey, Appellant Pro Se. Alan Gordon McGonigal, OFFICE OF THE UNITED STATES ATTORNEY, Wheeling, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frederick R. Summey filed a petition under 28 U.S.C. § 2241 (2000), seeking to challenge his sentence in light of Shepard v. United States, 544 U.S. 13 (2005). The district court construed the § 2241 petition as a motion under 28 U.S.C. § 2255 (2000), and dismissed for lack of jurisdiction. Summey asserts that § 2255 is inadequate and ineffective to test the legality of his detention and contends that his claims should be considered under § 2241 pursuant to the savings clause in § 2255. Because Summey does not meet the standard set forth in In re Jones, 226 F.3d 328, 333-34 (4th Cir. 2000), for application of the savings clause, we affirm the district court's order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED